

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

PAUL BERGER,	§	
directly derivatively on behalf of	§	
Income Opportunity Realty Investors, Inc.	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:19-CV-00286-E
	§	
TRANSCONTINENTAL REALTY	§	
INVESTORS, INC., et al.,	§	
	§	
Defendants.	§	

**ORDER OF DISMISSAL WITH PREJUDICE**

This action (“Action”) was brought in February 2019 as a shareholder derivative action. ECF No. 1. Plaintiff Paul Berger (“Plaintiff”) asserted claims derivatively on behalf of Income Opportunity Realty Investors, Inc. (“IOR”) and directly on his behalf against Transcontinental Realty Investors, Inc., American Realty Investors, Inc., Pillar Income Asset Management, Inc., IOR (nominal defendant), and individuals Daniel J. Moos, Gene S. Bertcher, Louis J. Corna, Ted R. Munselle, Henry A. Butler, Robert A. Jakuszewski, Raymond D. Roberts, Sr., Mickey N. Phillips and Gene E. Phillips (subsequently replaced by the Estate of Gene E. Phillips by its In- dependent Executor, Bradford Phillips) (collectively, the “Defendants”).

On June 28, 2022, Plaintiff filed his Unopposed Motion to Dismiss With Prejudice Pursuant to Federal Rules of Civil Procedure 23.1(c) and 41(a) (“Motion”). ECF 132.

The parties have not entered into a settlement, and neither Plaintiff nor Plaintiff’s counsel have received any consideration for this voluntary dismissal. Plaintiff and Defendants stipulate to the dismissal with prejudice.

The record shows that Rule 23.1(c) notice has been given to IOR shareholders in the manner approved by the Court in its Order Approving Proposed Notice Plan, and a full opportunity to be heard has been afforded to all parties to the Action, current IOR shareholders, and persons in interest. The Court finds that the notice provided: (i) constitutes reasonable and the best notice practicable under the circumstances; (ii) constitutes notice that was reasonably calculated, under the circumstances, to apprise current IOR shareholders of the pendency of the Action, the terms of the dismissal, and current IOR shareholders' right to object to and intervene; (iii) constitutes due, adequate, and sufficient notice to all persons or entities entitled to receive notice in accordance with Rule 23.1(c) of the Federal Rules of Civil Procedure; and (iv) meets the requirements of due process.

The Court hereby fully and finally grants the Motion, pursuant to Rule 23.1(c) and Rule 41(a) of the Federal Rules of Civil Procedure, in all respects.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that all derivative and direct claims that were or could have been asserted by Plaintiff in this Action against the Defendants are hereby ordered dismissed with prejudice.

Each party shall bear such party's own attorneys' fees and costs.

**SO ORDERED:** January 4, 2023.

A handwritten signature in black ink, appearing to read 'Ada Brown', is written over a horizontal line.

Ada Brown

UNITED STATES DISTRICT JUDGE